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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/586,202	06/02/2000	David E. Wenstrup	5021	6108

25280 7590 03/29/2005

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EXAMINER

KUMAR, PREETI

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/586,202

Applicant(s)

WENSTRUP, DAVID E.

Examiner

Preeti Kumar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5, 7, 8 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5, 7, 8, 13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment***

***Final Rejection***

1. Claims 1 and 9 are cancelled in the amendment dated 8/5/2004. Claims 5, 7, 8, and 13 are pending with claims 7 and 8 being "reinstated" from being cancelled in a previous amendment dated 10/15/2003.
2. Examiner notes that Applicants amendment recites that the limitations of claims 7 and 8 have been reinstated and applicants have filed the claims with the status identifier as "previously presented". However, the claims 7 and 8 that were presented prior to them being cancelled are not the same claims 7 and 8 filed in the amendment dated 8/5/2004. Specifically, in the amendments filed 7/4/2003; 2/24/2003; and 1/27/2003, (prior to claims 7 and 8 being cancelled in the amendment dated 10/15/2003), Applicants claim 7 recited " The method set forth in claim 5 wherein the sep of internally dyeing further includes the addition of an ultraviolet stabilizing agent to said polymeric material." and Applicants claim 8 recited "The method set forth in claim 1....", thus, these claims 7 and 8 which were actually previously presented are different from the claims filed in this amendment and given the incorrect status identifier as previously presented. Claim 7 as filed in this amendment 8/5/2004 is in the state it was in at the time of original filing in 6/2/2000. Claim 8 as filed in this amendment 8/5/2004 is in an amended state, the amendment being dependent on claim 5. Appropriate status identifiers are required in all further actions.

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3. The objection to claims 1 and 5 is withdrawn in light of applicant's cancellation of claim 1 and recitation of support for the amendment to claim 5 found in original claim 6.

4. The rejection of claims 1, 5, 9, and 13 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement is withdrawn in light of applicants cancellation of the claims and further consideration.

5. The rejection of claims 5, 7, 8, and 13 under 35 U.S.C. 103(a) as being unpatentable over Brodmann et al. (US 4,045,601) in view of Freeman (US 4,902,787) is maintained for the reasons recited in the previous office action and further explained below. The limitations of claims 7 and 8 have been addressed in the body of the rejection. See the previous office action.

***Response to Arguments***

6. Applicant's arguments with respect to claims 5, 7, 8, and 13 have been fully considered.

Applicants urge that Brodmann disclose coating a fabric and does not teach forming a yarn from a resin material. Also applicants urge that Brodmann does not disclose the direct dyeing of a yarn that has been produced from a polymeric material. In response to applicant's arguments against Brodmann individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The rejection of claims 5, 7, 8 and 13 over Brodmann in view of Freeman is proper for the reasons recited in the previous office action. Specifically, although neither reference individually teaches a polymeric yarn with a dye and a UV stabilizer, the teachings of Brodmann et al. teach a resin binder or coating to woven fiber glass fabrics to encapsulate the exposed yarn surfaces. The resin coating provides a yarn with a more resilient finish and also the resin coating constitutes a dye receptive layer which can be used to impart color to the fabric. See col.1, ln.23-30.

The teachings of Freeman have been relied upon since Freeman teaches a method of producing a UV lightfast dyestuff incorporating a photostabilizer compound that is adsorbed into the fibers along with the dyestuff molecules and serves to protect the dyestuff molecules from the destructive effects of the energy from absorbed UV light. See col.1, ln.44-50. Freeman teaches that the photostabilizers incorporated into the dyestuffs are additives to dye baths in conventional dyeing processes. See col.2, ln.25-30. Freeman also teaches an approach for the hybrid molecular structures in

which the photostabilizer moiety is incorporated into the dyestuff structure, thereby impregnating the fibers with an ultraviolet stabilizing agent. See col.3, ln.18-30.

Brodmann et al. in view of Freeman recognize the problems associated with previous methods for imparting color and UV stability to fabrics.

Specifically, Broadmann et al. and Freeman cite one of the most important considerations in determining the suitability of dyestuffs for specific applications is lightfastness. For example, automobile upholstery fabrics require optimum lightfastness. Most of the disperse dyestuffs presently available do not provide the high level of lightfastness demanded in automotive applications, especially where relatively dark colors are required. In the photostabilization mechanism, it is important that the photostabilizer compound be in close proximity to the chromophoric group of the dyestuff in order that it can serve to protect the dyestuff molecule from photodegradation. See Freemann col.1, ln.20-35.

One of ordinary skill in the art would have been motivated to combine the teachings of Freeman with that of Brodmann et al. because Freeman suggest a method of impregnating a photostabilizer moiety into the dyestuffs structure to protect the dyestuff molecules from the destructive effects of the energy from absorbed UV light and further, both Freeman and Brodmann et al. disclose a need for UV stability and lightfastness of fabric in general.

Finally, applicants urge that Freeman does not teach the formation of a polymeric yarn with a dye and UV stabilizer. Applicant's arguments regarding Freeman fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the

claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

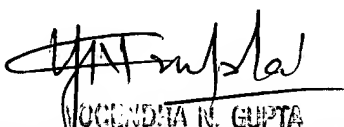
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Preeti Kumar whose telephone number is 571-272-1320. The examiner can normally be reached on M-F 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra N. Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Preeti Kumar  
Examiner  
Art Unit 1751

  
JAGENDRA N. GUPTA  
SUPERVISORY PATENT EXAMINER  
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PK